

Service Date: December 19, 1989,

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Complaint)	
of Conoco,)	
)	UTILITY DIVISION
Complainant,)	
)	
vs.)	
)	DOCKET NO. 88.7.20
Montana-Dakota Utilities Co.,)	
et al.,)	ORDER NO. 5447
)	
Defendants.)	

ORDER DISMISSING COMPLAINT AND CLOSING DOCKET

Background

On or about July 15, 1988 the Public Service Commission (Commission) received a Complaint from Conoco, Inc. (Conoco) against Montana-Dakota Utilities Company (MDU). The Complaint involved a dispute between Conoco and MDU concerning the applicability of certain tariff provisions to service provided Conoco by MDU during the period from December 6, 1987 through March 9, 1988. On November 4, 1988 the Commission granted MDU an indefinite extension of time within which to file an answer or other responsive pleading. In granting the extension the Commission indicated its understanding that the parties were attempting to negotiate a settlement of the dispute which would be submitted to the Commission for its review.

On July 10, 1989 the Commission received a Petition for Declaratory Ruling from MDU, along with an agreement by MDU and Conoco to settle the dispute that produced the Complaint. MDU requested a ruling that the settlement agreement was just and reasonable and not in violation of Section 69-3-305, MCA. On September 12, 1989 the Commission issued an Order and Response to Petition for Declaratory Ruling, in which the Commission refused to rule as MDU requested on the grounds that sufficient information had not been provided to allow a determination of whether the settlement was just and reasonable. The Commission also directed MDU to answer Conoco's complaint, or present another settlement agreement containing sufficient information for the Commission to determine whether it is just and reasonable.

On November 13, 1989 the Commission received an Answer from MDU to Conoco's complaint. The Commission also received on that date a Motion to dismiss Conoco's complaint as against Williston Basin Interstate Pipeline Company. On November 22, 1989 the Commission received a Stipulation from the parties that the dispute has been settled, and a Motion from MDU for an order terminating the Docket.

Discussion

The Commission will grant both Motions and close the Docket. The Commission will note, however, that, contrary to the intent and direction of the Commission in its Order and Response to Petition for Declaratory Ruling, MDU has not provided sufficient information to allow the Commission to determine whether the stipulated settlement of this dispute was just and reasonable as a matter of law. The Commission presumes that paragraph 4 of MDU's Answer means that Conoco paid to MDU, for the

period in question, an amount equal to Rate 82 times the quantity of gas transported. The Commission will direct its staff to verify this presumption in the next general audit.

Conclusions of Law

1. Montana-Dakota Utilities Company furnishes natural gas service to consumers in Montana, and is a "public utility" under the regulatory jurisdiction of the Montana Public Service Commission. Section 69-3-101, MCA.
2. The Commission properly exercises jurisdiction over the Petitioner's rates and operations. Section 69-3-102, MCA and Title 69, Chapter 3, Part 3, MCA.
3. The Commission may receive, process, and rule on complaints of interested persons against certain actions of public utilities. Section 69-3-321, MCA.

Order

Now Therefore It is Ordered that Docket No. 88.7.20 is closed. The Commission makes no determination that the settlement reached by the parties to this Docket was in conformance with Montana law, specifically Section 69-3-305, MCA. The Commission reserves the right, on its own initiative, to inquire into the details of the settlement at a later date.

Done and Dated this 11th day of December, 1989 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Vice Chairman

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.